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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,103	04/21/2004	Steven M. Benedetti	0275M-000738	5990

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EXAMINER

AMIRI, NAHID

ART UNIT PAPER NUMBER

3679

DATE MAILED: 01/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/829,103

Applicant(s)

BENEDETTI ET AL.

Examiner

Nahid Amiri

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 8-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6 and 7 is/are rejected.
- 7) ☒ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/26/04;1/6/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: exhibits.

DETAILED ACTION

Election/Restrictions

Claims 8-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on October 28, 2005. With respect to applicant's argument that the examiner should consider the claim 8. Examiner disagrees. Because the claim 8, applicant is claiming a combination of a fastener and trim piece which does not require features such as "generally planar body having opposed side" and "wing each formed to extend away from one of the opposed sides" of the claim 1. With respect to claims 15, 1) Applicant fails to show search is coextensive; 2) Applicant fails to show that a coextensive search is a reason for not requiring a restriction/election; and 3) Patentability of product is based on recited structure while the patentability of the method is based on process steps, two different set of criteria. Accordingly, whether or not the product is found to be patentable is of little consequence in determining the patentability of the method.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 6-7 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,253,423 Friedrich et al.

In regard to claim 1: Friedrich et al., disclose a plastic fixing element (Fig. 1a to 1d) (column 3, lines 5-10) comprising a head (52); a neck (N) (see attachment) joined to the head (52); a flexible skirt (54) joined to the neck (N); an anti-rotation feature (60, 61) joined to both the neck (N) and the skirt (54); and a pair of support legs (65, 66) extending perpendicularly from an underside of the skirt (54); and an insert (57) positioned between the pair of support legs

(65, 66) including: a generally planar body having opposed sides; and a pair of spaced flexible wings (62, 63) each formed to extend away from one of the opposed sides.

In regard to claim 2: Friedrich et al., disclose the fastener is a plastic which inherently could be, comprises an elastomeric material.

Inn regard to claim 3: Friedrich et al., disclose (Fig. 1) (column 4, lines 5-7) wherein the insert (57) comprises a metallic material.

In regard to claim 6: Friedrich et al., disclose (Fig. 2) having a protective guard tapering lead-in (G) (see attachment) formed at a distal end of each of the support legs (65, 66).

In regard to claim 7: Friedrich et al., disclose (Fig. 2) having a cross member joining distal ends of the support legs (65, 66) and partially supporting the metal insert (57) adjacent connecting points between the flexible wings (62, 63) and the metal insert (57).

Allowable Subject Matter

Claims 4 and 5, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

With respect to claim 4, the prior art does not show or suggest the anti-rotation feature is generally formed in a “V” shape having an apex joined to the neck and a body portion extending distally therefrom; and with respect to claim 5, the system having the neck and anti-rotation feature supported from an upper surface thereof and the skirt extending at an angle therefrom.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior arts of the record US Patent No. 5,704,753 Ueno; US Patent No. 4,363,160 Wibrow; US Pub. No. 2005/0034282 A1 Kurily et al.; US Patent No. 6,514,023 Moerke; US Patent No. 4,927,287 Ohkawa et al.; and US Patent No. 6,648,542 B2 Smith et el.; disclose a fastener for connecting two articles together in secure manner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nahid Amiri whose telephone number is (571) 272-8113. The examiner can normally be reached on 8:30-5:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

na
Nahid Amiri
Examiner
Art Unit 3679
November 08, 2005



DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

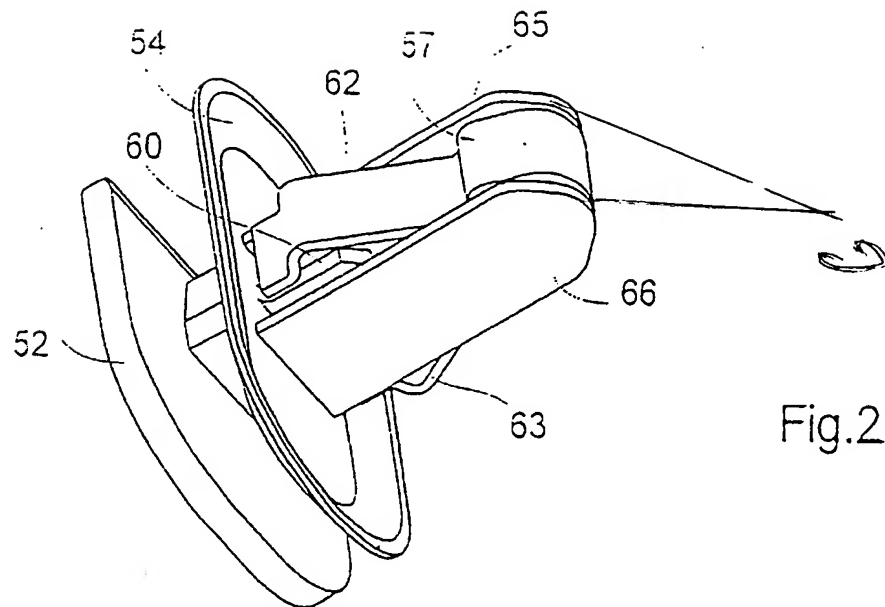


Fig. 2

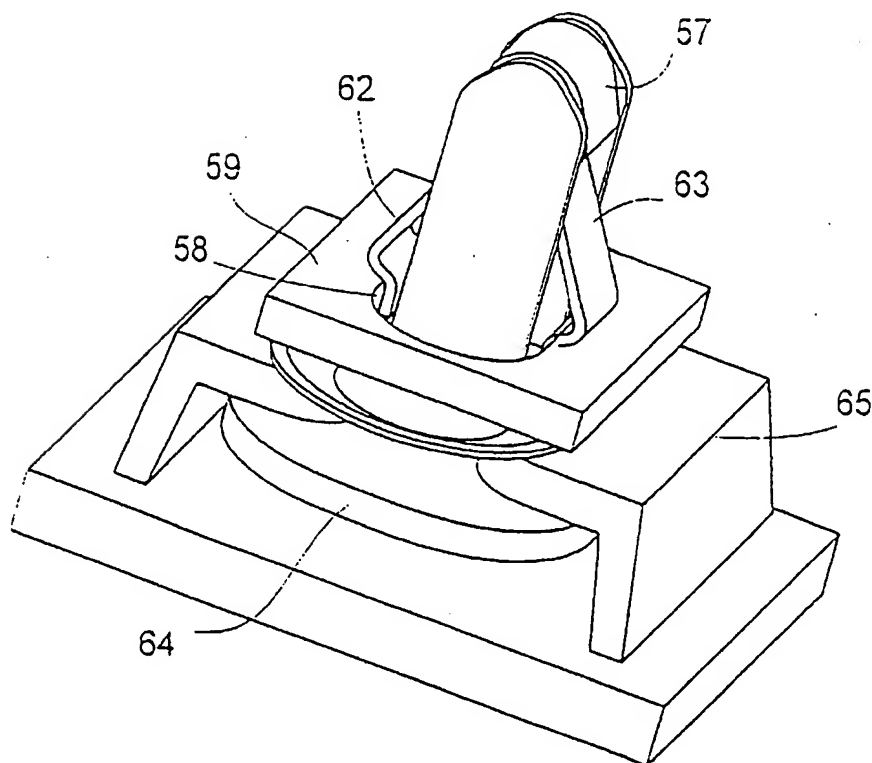
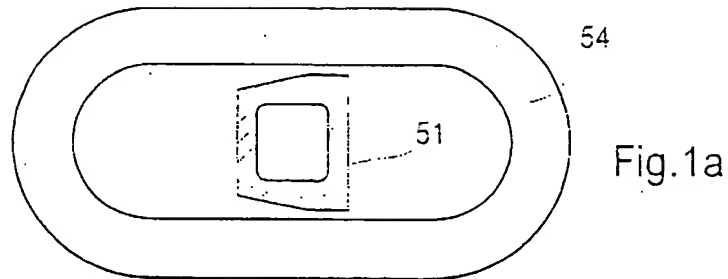


Fig. 3



A

